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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: 9th July, 2010

Date of Order: July 16, 2010

+ CrI. MC 3626 of 2008

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16.07.2010

Bhupinder Pal Singh Bakshi

...Petitioner

Through: Mr. Sudarshan Rajan, Advocate

Versus

The Central Bureau of Investigation & Anr.

...Respondents

Through: Mr. Harish Gulati, Advocate for CBI

Mr. A.K. Sangal, Advocate for the Bank

AND

+ CrI. MC 3619 of 2009

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Gurkaran Singh Bakshi

...Petitioner

Through: Mr. Sudarshan Rajan, Advocate

Versus

The Central Bureau of Investigation & Anr.

...Respondents

Through: Mr. Harish Gulati, Advocate for CBI

Mr. A.K. Sangal, Advocate for the Bank

JUSTICE SHIV NARAYAN DHINGRA

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| 1. | Whether reporters of local papers may be allowed to see the judgment? | Yes. |
| 2. | To be referred to the reporter or not? | Yes. |
| 3. | Whether judgment should be reported in Digest? | Yes. |

JUDGMENT

1. By the above two petitions under Section 482 Cr.P.C, the petitioners have sought directions for quashing of FIR No. RC 4(E)/2006/EOW-I/DLI dated 30th November 2006 registered at Police Station CBI/EOW-I, New Delhi under Sections 120B read with Sections 420,467,468,471, 477A of Indian Penal Code read with Sections 13(1)(D) of the Prevention of Corruption Act, 1988.

2. The petitioner Bhupinder Pal Singh Bakshi was one of the directors of M/s Pavi Overseas Pvt. Limited. He is one of the accused in the above FIR and other accused

persons include S.K. Chawla, the then Chief Manager of State Bank of Bikaner and Jaipur, Gurkaran Singh Bakshi, Kishan Lal @ Surjeet Singh @ Gabbar, Virender Kumar Sehgal and S.K. Rathi. M/s Pavi Overseas Limited, a company of the petitioner, submitted and requested for sanction of cash credit limit of Rs.30 lac. The property bearing number E-184, Greater Kailash-I, New Delhi was offered as security for the loan. This property was stated to be owned by one Surjit Singh r/o 6A/54, WEA, Karol Bagh, New Delhi. The loan amount was sanctioned without following the operational guidelines laid down by the bank for its officials. The valuation report of property was not obtained neither the property was visited nor title was verified. One of the accused i.e. Sanjay Kumar Rathi, Advocate issued a certificate regarding non-encumbrance of the aforesaid property and he certified that he had scrutinized the relevant documents and the property belonged to Surjit Singh. One person was produced before the bank as Surjit Singh, who was actually not Surjit Singh. The PAN Card with number ARC PS 8084 F allotted to one Surjit Singh resident of Mohalli working as electrician in Public Health Division was produced. This PAN card was found a forged card. One Kishan Lal @ Gabbar was produced before the bank as Surjit Singh for opening a bank account, to give credence to the story that the property belonged to him. The investigation revealed that the property was owned by M/s Skyline Promoters Pvt. Ltd. who had purchased it from its previous owner Mr. Surjit Singh r/o GH-13, Paschim Vihar, New Delhi on 21st December 1998 through M/s R.S.A. Estates. The actual owner Surjit Singh, after sale of the property had left India and was settled in Bangkok. A director of M/s Skyline Promoters Pvt. Ltd. told police that the photograph of person affixed in the bank was not of previous owner of property, Surjit Singh. The police investigation further revealed that the loan of Rs.30 lac was sanctioned to the company of the accused person on 12th April, 2005 on the proposal processed by Mr. S.K. Chawla. The sanction letter was issued by S.K. Chawla on 12th April, 2005 and amount of Rs.30 lac was released. The account of the company also remained overdrawn between 15th July, 2005 to 30th June, 2006 contrary

to the circulars and powers of S.K. Chawla. A bank account was opened in the name of Surjit Singh, on the basis of an imposter appearing before bank, by Yograj Bhatia, an official of the bank and on the account opening form the imposter was identified and introduced to the bank by Gurkaran Singh son of Bhupinder Pal Singh Bakshi as Surjit Singh. It was also revealed that this imposter was arranged by the present accused in collusion with Gurkaran Singh. A total amount of Rs.14 lac was withdrawn by Gurkaran Singh and Rs.9 lac was withdrawn by two cheques by Virender Kumar Sayal. This account was declared as NPA on 19th October 2006 and the amount of Rs.12,54,202.79 was outstanding in this account as on 31st January 2008.

3. The quashing of FIR, investigation of which revealed commission of serious offences under Indian Penal Code and Prevention of Corruption Act is sought on the ground that the petitioner company had paid back the entire loan amount. It has to be noted that loan taken by the company of the petitioner was paid back only after his arrest. However, the amount outstanding in the account of Surjit Singh, the imposter introduced by the petitioner and his son Gurkaran Singh has not been paid. It is further submitted by the counsel for the petitioners that the petitioner company had even earlier made regular payments to the bank. After lodging of present FIR, a compromise was entered into with the bank and the balance outstanding amount was paid and the bank had issued 'No Due Certificate' to the company. It is argued that only a very meager role was assigned to the accused in commission of the offence and no wrongful loss was caused to the bank. Actually the fraud was played by the bank manager and the role of the petitioners was insignificant in this fraud.

4. The counsel for CBI and the Bank strongly opposed quashing of present FIR stating therein that by mere payment of the loan amount back to the bank, the offence does not stand washed off. The petitioner was involved in commission of offences of serious nature including impersonation, playing fraud by seeking of loan on a property of

someone else on forged documents and it was the petitioner who was the kingpin of the entire crime and not the bank manager.

5. The present FIR was not registered against the petitioners only for non-payment of loan. If the issue had been of non-payment of loan, perhaps no offence would have been made out and the bank would have to go to civil court for recovery of the amount. The FIR was registered against the accused persons after finding out that the accused persons, in a brazen manner, produced forged documents like title deeds of a property of someone else as a collateral security. The accused persons arranged for an imposter and produced him before the bank who appeared in the bank as Surjit Singh, the owner of the property. The said imposter was identified and introduced to the bank by one of the accused. A fake non-encumbrance certificate was obtained in respect of the property and in connivance with the bank manager, a fraud was played with the bank to obtain monetary benefit from the bank and an account in the name of the said imposter was also opened using forged pan card. The entire crime was committed in a predesigned manner and scheme with different players playing different roles. I consider that when the subject matter of the FIR registered against the petitioner is fabrication of documents, helping in impersonation, production of forged documents and forged certificate before the bank, the FIR cannot be quashed. This issue was discussed at length by this Court taking into accounts various decisions in *Mr. Sushil Suri v CBI & Anr. CrI. M.C. 3842 of 2008 decided on 21st May, 2009*. The present case is squarely covered by above decision of this Court. I find no merits in these petitions. The petitions are hereby dismissed.

July 16, 2010
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SHIV NARAYAN DHINGRA J.